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Senate

The Senate met at 9:45 a.m. and was called to order by the PRESIDENT pro tempore (Mr. STEVENS).

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer.

Let us pray.

Our Father in heaven, today we praise You because Your loving kindness endures forever. You have blessed this land with freedom and abundance. Thank You for spacious skies and amber waves of grain.

Teach us to be thankful even when we face problems and pain as Your spirit opens our eyes to Your unfailing goodness.

Bless the Members of this body. May their labors today flow out of a pure heart, a good conscience, and a sincere faith. Give them trust and confidence in Your guidance and a reverence and humility in Your presence.

Keep us all from trying to please both others and You. We pray in Your holy Name. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

ORDER OF PROCEDURE

Mr. FRIST. Mr. President, today we will begin a 1-hour period for debate

prior to the cloture vote with respect to the LIHEAP bill. I ask unanimous consent that the 1 hour be for debate only.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. FRIST. Mr. President, I expect that vote to occur sometime shortly before 11 a.m. this morning. If cloture is invoked—and I hope it will be—then we will be working toward an agreement that will allow us to finish the bill as quickly as possible today.

We will be returning to the lobbying reform bill today. We will begin considering amendments. Therefore, in addition to the LIHEAP bill, we will have votes in relation to the amendments to the lobbying reform bill.

I also expect the Senate to recess from 12:30 until 2:15 for the weekly party luncheons.

I say again to all colleagues who want to finish the lobbying bill this week that we certainly want to allow adequate time for Members to offer amendments. I urge Members to come forward early. We would like to lock in a filing deadline as soon as possible. As a matter of fact, I hope that we could lock in a filing deadline for today and therefore give our managers their best opportunity to schedule consideration of the amendments as soon as possible.

Again, we expect to be working into the evening each night in an effort to finish the bill as soon as possible.

FLAG PROTECTION AMENDMENT

Mr. FRIST. Mr. President, every morning we open the Senate by reciting, as we just did a few moments ago, the Pledge of Allegiance. Hand over heart, we pay solemn tribute to the American flag, that sacred symbol of America's history, values, and principles.

We are reminded that we are but servants, momentary players in the great unfolding of the American story. The flag—transcendent, noble, still—

commands our humility and binds us in the common project of serving the body politic. It is with this understanding that, before Congress adjourns for the Fourth of July recess, I intend to bring the flag protection amendment to the floor.

The proposed amendment is simple. It is a one-sentence statement that reads: "The Congress shall have the power to prohibit the physical desecration of the flag of the United States."

Along with 80 percent of the American public and all 50 of our State legislatures, I believe the Constitution should allow laws that protect our flag.

Unfortunately, in 1989, the Supreme Court overturned 200 years of precedent and struck down all laws that prohibit flag desecration. I believe their decision was misguided. In my view, desecrating the flag is not speech but an act of physical assault. We know this when we see rioting mobs in foreign countries setting our flag on fire. We can see clearly that they are engaged in a specific act of physical aggression against our country and everything for which we stand. Whether inside or outside our borders, burning the American flag is intended to intimidate, not to engage in constructive speech.

I believe the amendment process is the appropriate remedy to the Court's 1989 decision. As Harvard law professor Richard Parker explains:

The amendment process is essential to the Constitution's deepest foundation—the principle of popular sovereignty affirmed in its first words, "We the people." Making use of this process reaffirms and thus preserves that foundation.

Since I first came to the Senate in 1995, I have supported a constitutional amendment to protect our flag.

The flag is not only the physical symbol of our Nation, our pride, and our in history, but also of our values:

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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freedom, justice, independence, equality, and, ultimately, we the people. Protecting the flag won't stop Americans from exercising their first amendment right to free speech.

Countless brave men and women have died defending the American flag. It is but a small, humble act to vote to defend it.

In the words of our esteemed colleague, Senator HATCH:

Whatever our differences of party, race, religion, or socio-economic status, the flag reminds us that we are very much one people, united in a shared destiny, bonded in a common faith in our Nation and the profound belief in personal liberty that our Nation protects.

I look forward to bringing the flag protection amendment to the floor for debate, and I am hopeful that we will be able to once and for all give the American people the opportunity to defend this noble symbol of our shared legacy.

MAKING AVAILABLE FUNDS FOR THE LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM, 2006

The PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of S. 2320 which the clerk will report.

The legislative clerk read as follows:

A bill (S. 2320) to make available funds included in the Deficit Reduction Act of 2005 for the Low-Income Home Energy Assistance Program for fiscal year 2006, and for other purposes.

Pending:

Kyl/Ensign amendment No. 2899, to make available funds included in the Deficit Reduction Act of 2005 for allotments to States for the Low-Income Home Energy Assistance Program for fiscal year 2006.

Inhofe amendment No. 2898, to reduce energy prices.

The PRESIDING OFFICER (Mr. ALLEN). Under the previous order, there will be 1 hour of debate equally divided between the Senator from Maine, Ms. SNOWE, and the Senator from Nevada, Mr. ENSIGN, or their designees.

Who yields time?

The Senator from Maine.

Ms. SNOWE. Mr. President, first of all, I thank the majority leader for his considerable effort, patience, and perseverance in bringing this legislation to the floor on the basis of the commitment which the leader made in December prior to our adjournment that we would have this legislation to increase low-income fuel assistance for those States that clearly need it, given the rising prices of home heating oil and natural gas, given the fact that we are in the midst of the winter, and given the fact that this has a major impact on families across the country.

I hope we will get beyond today, beyond the cloture vote and be able to secure the additional funding that is so essential to so many of the States and to so many individuals and families who depend upon it. It is absolutely critical that we provide these funds for

this fiscal year in order to prepare for the summer and also to address the contingency necessity of providing additional funding this winter.

I am joined in my efforts and I wish to thank my colleague, Senator COLEMAN, my colleague from Maine, Senator COLLINS, Senator GRASSLEY, Senator SUNUNU, Senator SPECTER, and Senator SANTORUM, as well as Senator SMITH and Senator KERRY. I express my deep appreciation for their support.

I first want to address some of the criticisms that were engendered last week because I think there has been a lot of misunderstanding and misinterpretation about exactly where we stand today and what the facts are.

First of all, my underlying bill shifts the funding from fiscal year 2007 to 2006. There is an additional \$1 billion for the purposes of "contingency" funding, otherwise known as emergency funding for emergency purposes. So it is budget neutral. We are just advancing it 1 year because of the unusual circumstances and because of events between rising oil prices and a difficult winter which have eroded the value of the low-income fuel assistance. This would help to make it more consistent with the authorization level because of the dire need in so many States across the country, including my own.

It does nothing to modify how those funds are disbursed to the States. The Senate decided 1 month ago when it passed the Deficit Reduction Act that 25 percent of the \$1 billion would be appropriated through a formula funding and 75 percent would go to emergency contingency funding.

The Congress decided—including the Senate, and it became law just a month ago—that the President would continue to have the emergency funding capability in order to disburse that part of the funding, 75 percent to those States that needed it at that moment in time because there was an emergency. Emergencies are just that—emergencies.

What the critics are saying about my approach is they now want to change it for the first time ever and take away the capability of having emergency funding under the low-income fuel assistance. It doesn't make sense. Because the States are facing an emergency, they ought to be able to have their funding. That would be taken away by the Kyl amendment, and it would be distributed to States irrespective of whether they need it, irrespective of the fact that no emergency occurred in their State.

I understand that under the low-income fuel assistance program, you have part emergency and part formula. That is what it is all about.

All my underlying bill says is advance the funding from 2007 to 2006 for \$1 billion. So we are not increasing the net level of funding for low-income fuel assistance. We have already agreed to it in the budget. It is not increasing spending. It is budget neutral. I don't

change the way it is distributed. I am doing just exactly what was dictated by the U.S. Senate, and it became law in the Deficit Reduction Act a month ago.

Now we are saying let us change the entire formula, let us change the entire approach through the Kyl amendment by distributing all of the funds through a formula and we will have no emergency funding.

Let me remind my colleagues that just last fall, we had four States that benefited from the emergency funding as a result of the hurricane. Alabama received \$2 million; Florida, \$1.35 million; Louisiana, \$12 million; Mississippi \$11.75 million—exactly because it was an emergency. The President had the authority, had the discretion to disburse those funds from the contingency funds under the low-income fuel assistance program. Under the Kyl amendment, the President wouldn't have that capability. It would be given to States that didn't experience the hurricane, that didn't have an emergency. We would not be able to have any emergency funding if we passed the Kyl amendment.

I hope the Senate will continue the way in which we have approached it in the past. I hope we pass the underlying bill at the very least to advance that funding.

Emergency contingency funds exist because we cannot predict the weather, whether it is in the South or the Northeast or the West. We can't predict. That is why we created an emergency fund under low-income fuel assistance. Now, for the first time ever, we take away that capability.

I think it is important for my colleagues to understand what is at stake. All of the funding under low-income fuel assistance would be distributed according to a formula. There would be no separate funding for emergency purposes as we provided in the gulf last fall. So four States were able to benefit from the emergency distribution as a result of the President's action.

We need that discretionary capability because we are not weather forecasters. We do not know what will happen in America wherever it is going to happen. This is not a regional program. This benefits all 50 States. In fact, in January 2005, in looking at the distribution, all 50 States historically have benefited at some point from the emergency funding.

Unfortunately, on Thursday night there was a chart distributed in the Senate that was misrepresentative of the facts. Even the Congressional Research Service said it was misleading. The fact is, it did not portray the facts. It showed a distribution of the funds in January 2005 according to the emergency funding at that moment in time. But if you looked at it in February or March or April or this year, it might be radically different because the emergencies might have occurred elsewhere. That distribution was for that moment in time because of the emergencies